



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20590
www.uspto.gov

APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09 604,474	06 27 2000	Wordell Nelson	LD 11114	5090

7590 01 14 2003

Timothy E Nauman Esq
Fay Sharpe Fagan
Minnich & McKee LLP 7th Floor
1100 Superior Avenue
Cleveland, OH 44114-2518

EXAMINER

TON, ANABEL

ART UNIT	PAPER NUMBER
----------	--------------

2875

DATE MAILED: 01 14 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/604,474

Applicant(s)

NELSON ET AL.

Examiner

Anabel M Ton

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 05 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-5 and 7-11 is/are allowed.
- 6) ☐ Claim(s) 12, 16, 17 and 19-23 is/are rejected.
- 7) ☒ Claim(s) 13-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the embodiment of the mechanically adjustable LED beam mechanism must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 12, 16, 17 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halasz et al and further in view of McDermott.
2. Halasz discloses a housing having at least one light emitting diode mounted within the housing generating a mechanically adjustable LED *beam* and serving as a light source, a reflector extending from an end of the housing for focusing and dispersing the at least one LED to a desired light contour being selectively adjustable, the LED is selectively movable and the reflector is fixed. McDermott discloses an adjustable switch coupled to a variable resistor for controlling the level of optical output. It would

have been obvious to one of ordinary skill in the art at the time the invention was made to have an adjustable switch in a flashlight assembly as that of Halasz, since as taught by McDermott, such a switch is beneficial for controlling a desired light output.

3. With regards to the flashlight comprising a plurality of LED's arranged concentrically around a single LED thereby forming a substantially circular configuration, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have such a configuration, since as taught by Lebens, such an arrangement is old and well known for the purpose of selectively choosing a lighting arrangement.

2. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halasz et al and further in view of McDermott as applied to claim 12 above, and further in view of Sharrah et al (6,250,771).

3. Halasz in view of McDermott disclose the lighting device as taught above. Sharrah discloses an electronic current regulator enclosed by the housing for allowing the LED beam to remain at a constant and desired light level . It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a electronic current regulator in an LED lighting device, since as taught by Sharrah, such an embodiment is inherent in an LED lighting device.

4. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halasz et al and further in view of McDermott as applied to claim 12 above, and further in view of Lebens et al.

Halasz in view of McDermott disclose the lighting device as taught above. Lebens discloses a plurality of LEDs arranged concentrically around a single LED thereby forming a substantially circular configuration and a dynamic pulse control system (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a plurality of LEDs arranged concentrically around a single LED thereby forming a substantially circular configuration and a dynamic control system since such structure and components for use in an LED lighting system are well known in the art.

Response to Arguments

5. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) And *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, applicant's contention that Halasz's rotatable switching assembly in no way teaches a "mechanically adjustable LED beam" as disclosed in claim 12 is disagreed upon by the examiner for the following reasons. Applicant claims, "at least one LED mounted within the housing generating a mechanically adjustable LED beam serving as a light source".

In column 10 of the Halasz reference, lines 30-42, it is clearly disclosed that "the reflector moves relative to the lamp and such movement allows for the light emanating from the lamp", in this case an LED beam, "to be focused by positioning the lamp at the reflector's focal point or defocused by positioning the lamp away from the reflector's focal point". This clearly teaches a mechanically adjustable LED beam, since to induce the adjustment of the LED beam a mechanism is needed, in this case the rotatable head of the flashlight in correlation with the reflector.

6. With regards to applicant's contention that McDermot and Halasz fail to disclose "a flashlight having a switch for selectively turning on and off a select number of LED's", it is not agreed upon by the examiner for the following reason. The phrase "select number" includes the number 1 as a select number. Halasz has at least one LED that is selectively turned on an off, thus teaching this embodiment (figures 3 and 8 show 2 LED's).

Allowable Subject Matter

7. Claims 1-5 and 7-11 are allowed.
8. Claims 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. The following is a statement of reasons for the indication of allowable subject matter: The prior art cite does not disclose the following:

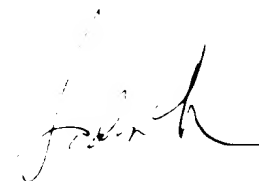
- A flashlight assembly comprising a housing at least one light emitting diode mounted within the housing generating an LED beam and serving as a light source for the flashlight; **a reflector extending from an end of the housing for focusing and dispersing the LED beam to a desired light contour**; and an adjustable switch coupled to a variable resistor for controlling the level of optical output.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M Ton whose telephone number is (703) 305-1084. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Anabel M Ton
Examiner
Art Unit 2875



Application/Control Number: 09/604,474

Page 7

Art Unit: 2875

AMT

January 13, 2003